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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/442,909	11/18/1999	DOUGLAS GEORGE MURRAY	EN999088	6548
30400	7590	04/06/2005	EXAMINER	
HESLIN ROTHENBERG FARLEY & MESITI P.C. 5 COLUMBIA CIRCLE ALBANY, NY 12203			BLACK, LINH	
			ART UNIT	PAPER NUMBER
			2167	
			DATE MAILED: 04/06/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/442,909	MURRAY, DOUGLAS GEORGE
Examiner	Art Unit LINH BLACK	2167

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 05 August 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-24,26-47,49-67,69 and 70 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-24,26-47,49-67,69 and 70 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 18 November 1999 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

## **DETAILED ACTION**

This communication is in response to the amendment dated 8/15/04. Claims 25, 48, and 68 are cancelled. Claims 1, 15, 28-30, 41, 51, and 61 are independent claims. Claims 1-24, 26-47, 49-67, 69-70 are pending.

### ***Claim Objections***

Claims 3, 14, 26, 40, 49, 60, and 69 are objected to because of the following informalities: the limitation "some of" is not definite/specific enough. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 9-14, 30-36, 3840, 51-57, 59-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matheny et al (USP 6259446), and further in view of Ciccone, Jr. et al. (US 6338149).

1. As per claim 1, Matheny et al. teach

Merriam-Webster's Collegiate Dictionary – Ten Edition defines dictionary as "a list (as of items of data or words) stored in a computer for reference (as for information retrieval or word processing)".

providing a dictionary file having a plurality of inquiries for ascertaining state information on said computer system – col. 1, line 30 to col. 2, line 6; fig. 12, elements 1200-1290. said plurality of inquiries being organized into at least one subject group, each subject group being directed to a different piece of said state information – col. 20, lines 25-43. at least one group of said at least one subject group having multiple records of inquiry; processing at least one inquiry of said plurality of inquiries of said dictionary file to accumulate said state information, said processing comprising for each group of said at least one group having multiple records of inquiry – col. 1, line 30 to col. 2, line 6; fig. 12, elements 1200-1290.

processing a record of said multiple records of inquiry, and if a condition of said record is satisfied then terminating processing of said group, otherwise processing a next record of said multiple records of inquiry and continuing until a condition of one record of said multiple records of inquiry is satisfied or all records of said multiple records of inquiry of said group have been processed – col. 1, line 59 to col. 2, line 6; fig. 12; col. 35, line 64 to col. 36, line 3.

However, Ciccone, Jr. et al. further improve the Matheny et al.'s limitation of "said plurality of inquiries being organized into at least one subject group, each subject group

being directed to a different piece of said state information" by teaching change monitoring system for a computer system – the title. Ciccone, Jr. et al. teach a system employs a "template" concept to monitor platforms, products... The templates for the products list all of the objects included in that product. Examples of objects (and their attributes) are platform, files, processes, disk storage – col. 3, lines 39-67; state check list – col. 14, lines 3-27. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Ciccone, Jr. et al.'s teaching with Matheny et al.'s teaching in order allow the monitoring of different objects efficiently.

2. As per claim 2, Matheny et al. do not explicitly teach wherein said at least one subject group comprises multiple subject groups. However, Ciccone, Jr. et al. teach at least one subject group comprises multiple subject groups - col. 3, lines 39-67; col. 14, lines 3-27.
3. As per claim 3, Matheny et al. teach wherein at least some inquiries of said plurality of instructions, each instruction condition of said instruction inquiries comprise providing a result when a is satisfied - col. 1, line 45 to col. 2, line 6.
4. As per claims 4-5, Matheny et al. teach collecting results of said instructions into a file, said file being representative of said state of said computer system; wherein each inquiry of said plurality of inquiries is an instruction which provides a result

when a condition of said instruction is satisfied - fig. 12; col. 17, lines 9-55; col. 23, lines 5-49.

5. As per claims 6-7, Matheny et al. teach transferring said file to an information repository coupled to said computer system across a network; wherein said computer system comprises one computer system of a plurality of computer systems coupled to said network - col. 6, lines 43-51; fig. 12, elements 1230-1290; col. 7, lines 31-41.

6. As per claim 9, Matheny et al. teach wherein at least one record of inquiry of said multiple records of inquiry comprises an instruction which provides a result when a condition of said instruction is satisfied, said result comprising state information for said group having said record when the condition of said instruction is satisfied - col. 1, lines 59-65; fig. 12; col. 23, lines 26-49; col. 27, lines 1-5.

7. As per claims 10-11, Matheny et al. teach one computer system within a network of computer systems, and wherein said providing comprises reading said dictionary file from a server coupled to said network to said one computer system to gather said state information thereon – col. 6, lines 43-51; fig. 12, elements 1230-1290.

8. As per claim 12, Matheny et al. teach processing each group of said at least one subject group, and setting group substitution variables for output upon initiation of processing of each group of said at least one subject group – col. 1, line 30 to col. 2, line 6; col. 23, lines 18-25.
9. As per claim 13, Matheny et al. teach wherein said multiple records of inquiry of said at least one group comprise at least one of a file check inquiry, a file content check inquiry, an external process check inquiry, or a default inquiry for said group - col. 17, line 9 to col. 18, line 5.
10. As per claim 14, Matheny et al. teach a file inquiry which checks for existence of a file of a certain date, time or size and which can return file information ... - the abstract; col. 1, lines 30-45; col. 6, lines 17-32.
11. Claims 8, 21, 37, 47, 58, 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matheny et al. (USP 6259446), Ciccone, Jr. et al. (US 6338149), and further in view of Datig (US 6233545).
12. As per claims 8, 21, 37, 47, 58, 67, Matheny et al. and Ciccone, Jr. et al. do not explicitly suggest wherein said dictionary file comprises a rules database in an ASCII file. However, Datig teach instruction sets built into the procedures of the rule sets and databases that operate on ASCII operating schemes – col. 408, lines 5-8. Thus, it would have been obvious to one of ordinary skill in the art at the time of the

invention to allow rule sets/database to be in ASCII file in order for system status checks processed efficiently.

13. Claims 30-40, 51-60 claims the same subject matters as of claims 1-14, and are rejected based on the same ground of rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

14. Claims 15-20, 22-27, 41-46, 48-50, 61-66, 68-70 are rejected under 35

U.S.C. 102(e) as being anticipated by Matheny et al (USP 6259446).

15. Matheny anticipated the independent claims 15, 28, 41, and 61 by the following:

providing a dictionary file having a plurality of inquiries for ascertaining state information on said computer system – col. 1, line 30 to col. 2, line 6; fig. 12, elements 1200-1290. at least one inquiry ... when a condition of said instruction is satisfied - col. 1, lines 59-65; col. 23, lines 26-49; col. 27, lines 1-5.

wherein said plurality of inquiries comprise at least one of a file check inquiry, a file content check inquiry, an external process check inquiry, or a default inquiry – col. 17, line 9 to col. 18, line 5.

processing at least one inquiry of said dictionary file to accumulate said state information - col. 35, line 64 to col. 36, line 3; col. 32, lines 25-32.

said processing comprising for each instruction ...at least one instruction – col. 1, line 59 to col. 2, line 6; col. 35, line 64 to col. 36, line 3; col. 32, lines 7-32.

16. Matheny anticipated the independent claims 16, 42, 62 by the following:

wherein said at least one inquiry comprising said instruction comprises multiple inquiries of said plurality of inquiries, each instruction having a result which is output when a condition of said instruction is satisfied – col. 1, line 45 to col. 2, line 6.

17. Matheny anticipated the independent claims 17-18, 43-44, 63-64 by the following:

collecting results of said instructions into a file, said file being representative of said state of the computer system; wherein each inquiry of said plurality of inquiries is an instruction which provides a result when a condition of said instruction is satisfied – fig. 12; col. 17, lines 9-55; col. 23, lines 5-49.

18. Matheny anticipated the independent claims 19-20, 45-46, 65-66 by the following: transferring said file to an information repository coupled to said computer system across a network; wherein said computer system comprises one computer system of a plurality of computer systems coupled to said network - col. 6, lines 43-51; fig. 12, elements 1230-1290; col. 7, lines 31-41.

19. Matheny anticipated the independent claims 22-24 by the following: one computer system within a network of computer systems, and wherein said providing comprises reading said dictionary file from a server coupled to said network to said one computer system to gather said state information thereon – col. 6, lines 43-51; fig. 12, elements 1230-1290.

20. Matheny anticipated the independent claims 26, 49, 69 by the following: a file inquiry which checks for existence of a file of a certain date, time or size and which can return file information ... - the abstract; col. 1, lines 30-45; col. 6, lines 17-32.

21. Matheny anticipated the independent claims 27, 50, 70 by the following:

wherein said plurality of inquiries are organized into at least one subject group, each subject group being directed to a different piece of said state information, at least one group of the at least one subject group having multiple instructions, and processing each instruction of each group of the at least one group having multiple instructions such that if a condition of the instruction is satisfied then terminating processing of the group, otherwise processing a next instruction of the multiple instructions within the group and continuing until a condition of one instruction of the multiple instructions is satisfied or until all instructions of the multiple instructions of the group have been processed – col. 20, lines 25-43.

22. Matheny anticipated the independent claim 29 by the following:

Merriam-Webster's Collegiate Dictionary – Ten Edition defines dictionary as "a list (as of items of data or words) stored in a computer for reference (as for information retrieval or word processing)".

A memory for storing a dictionary file data structure – col. 3, lines 7-15; col. 8, lines 47-62; col. 32, lines 25-32.

the dictionary file data structure facilitating gathering information on a state of a computer system – the abstract; col. 1, lines 30 to col. 2, line 6; col. 23, lines 6-62. the dictionary file data structure comprising: a plurality of inquiries for ascertaining said state information on said computer system – col. 35, line 64 to col. 36, line 3; col. 32, lines 25-32.

at least one inquiry of the plurality of inquiries comprising an instruction having a result which is output when a condition of said instruction is satisfied – col. 1, lines 59-65; col. 23, lines 26-49; col. 27, lines 1-5.

***Response to Arguments***

Applicant's arguments with respect to claims 1-24,26-47,49-67,69 and 70 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINH BLACK whose telephone number is 571-272-4106. The examiner can normally be reached on 8am - 5pm.

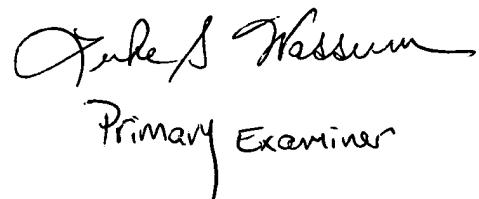
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN BREENE can be reached on 571-272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LINH BLACK  
Examiner  
Art Unit 2167

April 4, 2005



Duke S. Wassum  
Primary Examiner